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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.                  | CONFIRMATION NO.       |
|--|-------------|----------------------|--------------------------------------|------------------------|
| 10/567,859   | 02/10/2006  | Steve Higgs          | 32142227257                          | 5711                   |
| 26694  | 7590        | 07/18/2007           |                                      |                        |
| VENABLE LLP<br>P.O. BOX 34385<br>WASHINGTON, DC 20043-9998 |             |                      | EXAMINER<br>MCPARTLIN, SARAH BURNHAM |                        |
|  |             |                      | ART UNIT<br>3636                     | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>07/18/2007              | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/567,859

Applicant(s)

HIGGS ET AL.

Examiner

Sarah B. McPartlin

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/10/06</u> | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Priority*

1. Acknowledgement is made of applicant's claim for foreign priority based on application number 2003904257 filed in Australia on May 5, 2004.
2. It is noted that this application appears to claim subject matter disclosed in prior Application No. PCT/AU2004/000582, filed May 5, 2004. A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e), 120, 121, or 365(c). See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, 121, or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications. If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii)

Art Unit: 3636

and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

***Information Disclosure Statement***

3. The information referred to in the information disclosure statements filed on February 10, 2006 has been considered as to the merits.

***Claim Objections***

4. Claims 10-11 are objected to because of the following informalities: It appears as if the working "ocking" should be replaced with the word - - locking - - in line 3 of claim 10. Claim 11 is objected to as being dependent upon an objected base claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 13 states that "the backrest member is substantially in register with the rear of the base" in lines 2-3. What is meant by the phrase "in register with"? In the interest of compact prosecution the Examiner has assumed that Applicant intended to state that the backrest member is substantially aligned with the rear of the base. Clarification is required.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-2, 4-10 and 12-15 are rejected as best understood with the above cited indefiniteness under 35 U.S.C. 102(b) as being anticipated by Rosen (4,447,920). With respect to claim 1, Rosen discloses an article of furniture (10) which includes: a base (11)(22)(20) having a front and a rear and a top surface; and a backrest assembly (14)(13)(14) having a front edge and a rear edge and slideably arranged relative to the base (11)(22)(20) in a plane parallel to the top surface of the base (11)(22)(20) to adjust a depth of the base (11)(22)(20) as measured between the front edge of the backrest assembly (14)(13)(14) and the front of the base (11)(22)(20). The adjustment is best depicted in Figures 4 and 5.

With respect to claim 2, a carrier arrangement (20)(21)(23)(30) is interposed between the base (11)(22)(20) and the backrest assembly (14)(13)(14) for facilitating sliding displacement of the backrest assembly (14)(13)(14) relative to the base (11)(22)(20).

With respect to claim 4, the backrest assembly (14)(13)(14) includes a backrest member (13) and at least one armrest (14) extending at an angle from the backrest member (13).

Art Unit: 3636

With respect to claim 5, the backrest member (13) defines the front edge and the rear edge of the backrest assembly (14)(13)(14).

With respect to claim 6, the backrest assembly (14)(13)(14) includes two armrests (14)(14).

With respect to claim 7, the armrests (14)(14) extend at right angles to the backrest member (13).

With respect to claim 8, the carrier arrangement (20)(21)(23)(30) includes a pair of rails (20), one rail (20) being arranged beneath each armrest (14).

With respect to claim 9, a runner (21) is displaceably arranged on each rail (20), each runner (21) being secured to an underside of its associated armrest (14).

With respect to claim 10, the carrier mechanism (20)(21)(23)(30) includes a locking mechanism (23) associated with each armrest (14), each locking mechanism (23) releasably locking the runner (21) of the armrest (14) and the rail (20) on which the runner (21) is arranged relative to each other.

With respect to claim 12, the rails (20) are arranged in a concealed position on the base (11)(22)(20) as best depicted in Figure 1 with the runners (21) being carried on a lower side of each of the armrests (14)(14) so that when the backrest assembly (14)(13)(14) is at either of its limits of movement (see Figure 4 and Figure 5), the rails (20) remain concealed beneath the armrests (14).

With respect to claim 13, the rear edge of the backrest member (13) is substantially in register with the rear of the base (see solid line depiction in Figure 5)

Art Unit: 3636

when the backrest assembly (14)(13)(14) is in its first position relative to the base (11)(22)(20).

With respect to claim 14, the rear edge of the backrest member (13) overhangs the rear of the base (11)(22)(20) when the backrest assembly (14)(13)(14) is in its second position (see phantom line depiction in Figure 5) relative to the base (11)(22)(20).

With respect to claim 15, the article of furniture (10) is in the form of a sofa.

9. Claims 1-3, 11 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Gandreau, Jr. (4,763,952). With respect to claim 1, Gandreau discloses an article of furniture which includes a base (20) having a front and a rear and a top surface; and a backrest assembly (40) having a front edge and a rear edge and slideably arranged relative to the base (20) in a plan parallel to the top surface of the base (20) to adjust a depth of the base as measured between the front edge of the backrest assembly (40) and the front of the base (20).

With respect to claim 2, a carrier arrangement (21)(41) interposed between the base (20) and the backrest assembly (40) for facilitating sliding displacement of the backrest assembly (40) relative to the base (20).

With respect to claims 3 and 27, the carrier arrangement (21)(42) includes a locking mechanism (43) for locking the backrest (40) in a first position at which the depth of the base has a minimum length, a second position at which the depth of the base has a maximum length dimension and at least certain positions between the first



Art Unit: 3636

position and the second position because the locking mechanism (43) allows for infinite adjustment of position.

With respect to claim 11, the locking mechanism (43) includes a concealed operating member in the form of a screw that is concealed in projection (42).

10. Claims 16-22, 24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmidt (4,127,966). With respect to claim 16, Schmidt discloses a locking mechanism which includes: a tubular housing (56) defining an aperture (unlabeled) in a peripheral wall; a locking member (64) receivable in the aperture, the locking member (64) being displaceable between a first position (Figure 2) in which it protrudes through the aperture and a second position (Figure 3) in which it is at least partially withdrawn into the aperture; and a displacement member (58) movably received in the housing (56), when the displacement member (58) is in its locking orientation (Figure 2), the locking member (64) is urged partially out of the aperture in the housing (56) to protrude a predetermined extent through the housing (56) to effect locking, and when the displacement member (58) is in its unlocking position (Figure 3), the locking member (64) is free to be at least partially withdrawn into the housing (56) to effect unlocking.

With respect to claim 17, an urging element (60) for urging the displacement member (36)(58) to its locking orientation (Figure 2) is disclosed.

With respect to claim 18, the urging element (60) effects linear displacement of the displacement member (58).

Art Unit: 3636

With respect to claim 19, the locking mechanism includes an operating member (50) which acts on the displacement member (58) for displacing the displacement member, relative to the housing (56) between its locking orientation (Figure 2) and its unlocking orientation (Figure 3).

With respect to claim 20, the displacement member (58) is in the form of a rod received in a passage (unlabeled) in the housing (56).

With respect to claim 21, the rod (58) has a notch (unlabeled) defining a ramped surface (62) proximate an end of the rod (58) received in the housing (56).

With respect to claim 22, the ramped surface (62) bears against the locking member (64) and retains the locking member (64) in register with the aperture in the body member (56).

With respect to claim 24, the urging means (60) is in the form of a coil spring acting on rod (58).

With respect to claim 25, the locking member (64) is in the form of a ball.

11. Claims 16, 17, 19-20 and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim et al. (6,425,273). With respect to claim 16, Kim et al. discloses a locking mechanism which includes: a tubular housing (12) defining an aperture (52) in a peripheral wall; a locking member (58) receivable in the aperture, the locking member (58) being displaceable between a first position (Figure 3) in which it protrudes through the aperture (52) and a second position (Figure 4) in which it is at least partially withdrawn into the aperture; a displacement member (62) movably received in the

Art Unit: 3636

housing (12), the displacement member being displaceable between a locking orientation (Figure 3) and an unlocking orientation (Figure 4) when the displacement member is in its locking orientation the locking member (58) is urged partially out of the aperture (52) in the housing (12) to protrude a predetermined extent through the housing (12) to effect locking and when the displacement member is in its unlocking orientation the locking member (58) is free to be at least partially withdrawn into the housing (12) to effect unlocking.

With respect to claim 17, an urging element (64) for urging the displacement member (62) to its locking orientation is disclosed.

With respect to claim 19, an operating member which acts on the displacement member (62) is disclosed for displacing the displacement member relative to the housing (12) between its locking orientation and its unlocking orientation.

With respect to claim 20, the displacement member (62) is in the form of a rod received in a passage of the housing (12).

With respect to claim 23, the rod (62) has an eccentrically arranged stepped region, of smaller diameter than a remainder of the rod, defined at or proximate an end of the rod received in the housing (12), the stepped region defining a first zone (Figure #0 which is shaper than an opposed second zone (Figure 4).

With respect to claim 24, the urging means (64) is in the form of a coil spring acting on the rod (62) by way of element (62).

***Allowable Subject Matter***

12. Claim 28 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Hong (5,902,013); Washington (7,222,920); Berman (3,328,810); Gibbs (2,579,921); Sabatino (2,702,197) and Schooler et al. (5,775,776).

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3636

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah B. McPartlin/  
Patent Examiner  
Art Unit 3636

SBM  
July 16, 2007